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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,101	12/11/2000	Benoit Ambroise	10244	3915

7590 01/17/2002
ExxonMobil Chemical Company
P.O. Box 2149
Baytown, TX 77522

EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/17/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

A-9-3

Office Action Summary

Application No.

09/734,101

Applicant(s)

AMBROISE ET AL.

Examiner

Hai Vo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Specification

1. The specification is objected to because of the following reasons. The status of Patent Application Ser. 09/079,807 (page 6, lines 22-23) needs to be updated. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topolkaraev et al (US 5,968,643). Topolkaraev discloses a microporous film composed of interconnected pores (abstract) and produced from a biaxially oriented thermoplastic material (table 1). Topolkaraev further teaches a microporous film containing silicon glycol copolymer surfactant (column 8, lines 23-25). The impregnation of surfactant into the pore space of the microporous film is likely to occur during the process of mixing and handling the composite. Topolkaraev discloses superwetting surfactant being used to provide a controlled interaction with liquids and allow a desired amount of liquid access into the porous structure (column 5, lines 59-61). Topolkaraev discloses the microporous film made of polyethylene. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used HDPE as a biaxially oriented thermoplastic

material because it is known in the art HDPE is typical form of the biaxially oriented thermoplastic material which is inexpensive and readily available.

With regard to claims 3 and 4, Topokaraev discloses the microporous film comprising calcium carbonate filler (column 6, line 14).

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yagi et al (US 5,650,451) in view of Sandbrink et al (US 5,985,793). Yagi discloses a surface-modified biaxially oriented film from high molecular weight polyethylene (high density polyethylene) having excellent affinity for water and void content of 20% to 70% (column 14, lines 47-53 and column 15, line 1-3). Yagi teaches the surface of biaxially oriented film being treated with a coating of vinyl monomer having the hydrophilic group. Yagi is silent as to the coating of Silicone glycol composition. Sandbrink discloses a superwetting surfactant (column 17, lines 7-13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have treated the surface of biaxially oriented film with the coating of Silicone glycol composition motivated to impart affinity for water to the biaxially oriented film.

With regard to claim 2, Yagi discloses the biaxially oriented film having a nonwoven fabric-like structure (column 5, lines 65), likewise a network of interconnecting pores communicating throughout the film.

With regard to claims 3 and 4, Yagi discloses an inorganic filler being incorporated into the film (column 9, line 63). Yagi is silent as to calcium carbonate as an inorganic filler. It would have been obvious to one having ordinary skill in the art at

the time the invention was made to have incorporated calcium carbonate as an inorganic filler into the composite because it is known in the biaxially stretched film, calcium carbonate is typical form of a cavitating agent.

With regard to claims 5-8, Yagi discloses the biaxially oriented film being used as a laminated film composed of a plurality of homogeneous films, or may be used in lamination with films of different materials (column 15, lines 46-48). It is the examiner's position that the article of Yagi modified by Sanbrink is identical to or only slightly different that the claimed article prepared by the method of the claim, because both articles use the same materials, having structural similarity, i.e., porosity and molecular orientation. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. **The patentability of a product does not depend on its method of production.** If the product in the product-by-process claim is the same as or an obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). The burden has been shifted to the applicant to show unobvious differences between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289,291 (Fed. Cir. 1983). The Yagi/Sandbrink references suggested the claimed subject matter. It is noted that if the applicant intends to rely on Examples in the specification or in a submitted Declaration to show non-obviousness, the applicant should clearly state how the Examples of the present invention are

commensurate in scope with the claims and how the Comparative Examples are commensurate in scope with Yagi modified by Sandbrink.

5. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourdelais et al (US 6,022,677) in view of Sandbrink et al (US 5,985,793).

Bourdelais discloses a biaxially oriented, microvoided sheet comprising a microvoided core layer and skin layers provided on both sides of the core layer (column 7, lines 20-27). Bourdelais discloses the biaxially oriented, microvoided sheet made of polyethylene (column 7, line 39). Bourdelais is silent as to HDPE and silicone glycol coating. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used HDPE as a biaxially oriented thermoplastic material because it is known in the art, HDPE is typical form of the biaxially oriented thermoplastic material which is inexpensive and readily available. Sandbrink discloses a superwetting surfactant (column 17, lines 7-13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have treated the surface of biaxially oriented film with the coating of Silicone glycol composition motivated to impart affinity for water to the biaxially oriented film. With regard to claim 5, Bourdelais discloses the microvoided composite biaxially oriented sheet being made by coextrusion of the core and surface layers (column 7, lines 33-35).

Conclusion


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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Monday to Friday, 8:30 to 5:00 (EAST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (703) 308-1261. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV
January 9, 2002


BLAINE COPENHEAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700